

Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 IO-13 ISO-00 SSO-00 INRE-00 NSCE-00
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TRSE-00 /077 W
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O R 041445Z MAY 77
FM AMEMBASSY CAPE TOWN
TO SECSTATE WASHDC NIACT IMMEDIATE 6051
AMEMBASSY BONN NIACT IMMEDIATE
AMEMBASSY LONDON NIACT IMMEDIATE
AMEMBASSY OTTAWA NIACT IMMEDIATE
AMEMBASSY PARIS NIACT IMMEDIATE
USMISSION USUN NEW YORK NIACT IMMEDIATE
INFO AMEMBASSY DAR ES SALAAM
AMEMBASSY GABORONE
AMEMBASSY LAGOS
AMEMBASSY LUSAKA
AMEMBASSY MAPUTO
AMEMBASSY PRETORIA

C O N F I D E N T I A L SECTION 1 OF 2 CAPE TOWN 0700

E.O. 11652: GDS
TAGS: PINS SHUM WA SF
SUBJ: NAMIBIA: DETAINEES AND POLITICAL PRISONERS

REF: A) CAPE TOWN 0666, B) CAPE TOWN 0693

1. THIS REPORT IS A JOINT DOCUMENT CONCURRED IN BY THE
AMBASSADORS OF CANADA, FRANCE, GERMANY, AND THE UNITED
KINGDOM, AND THE AMERICAN CHARGE IN CAPE TOWN. ACTION
ADDRESSEES ARE REQUESTED TO PASS COPIES TO THE APPROPRIATE
REPRESENTATIVES AND MINISTRIES OF THE FIVE. THIS REPORT
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2. THE OBJECTIVES OF THE FIVE POWERS WERE STATED TO THE
SOUTH AFRICAN GOVERNMENT IN THE FOLLOWING TERMS:
"WE SUGGESTED THAT ALL NAMIBIAN POLITICAL PRISONERS
INSIDE AND OUTSIDE NAMIBIA BE RELEASED AND THAT, IN CASE
OF A DISPUTE AS TO WHO WAS A POLITICAL PRISONER, THE
DISPUTE WOULD BE DECIDED BY THE COMMISSION OF JURISTS.

THE SAG RESPONDED THAT IT COULD RELEASE DETAINEES BUT WOULD NOT RELEASE PRISONERS SENTENCED BY COURTS FOR CRIMINAL ACTS. CLEARLY, THERE IS A DIFFERENCE ON WHAT CONSTITUTES POLITICAL PRISONERS, AND SINCE THIS IS A MAJOR ELEMENT OF RESOLUTION 385, WE WILL HAVE TO HAVE FURTHER DISCUSSIONS ON IT."

3. PARAGRAPH 11B OF RESOLUTION 385 DEMANDS THAT SOUTH AFRICA "RELEASE ALL NAMIBIAN POLITICAL PRISONERS, INCLUDING ALL THOSE IMPRISONED OR DETAINED IN CONNECTION WITH OFFENCES UNDER SO-CALLED INTERNAL SECURITY LAWS, WHETHER SUCH NAMIBIANS HAVE BEEN CHARGED OR TRIED OR HELD WITHOUT CHARGE AND WHETHER IN NAMIBIA OR SOUTH AFRICA."

4. NAMIBIAN POLITICAL PRISONERS CAN BE CONSIDERED UNDER FOUR CATEGORIES:

A. THOSE CONVICTED UNDER SOUTH AFRICAN SECURITY OR OTHER LEGISLATION EXTENDED TO NAMIBIA, TO WHICH MAY BE ADDED THOSE, IF ANY, WHO HAVE BEEN CHARGED BUT ARE EITHER AWAITING TRIAL OR ARE UNDER TRIAL.

B. THOSE UNDER ADMINISTRATIVE DETENTION, I.E., NOT CHARGED, INCLUDING THOSE HELD UNDER PROCLAMATION R17 OF 1972, OPERATIVE IN OVAMBOLAND, AND R89 OF 1976, OPERATIVE IN KAVANGO AND EASTERN CAPRIVI.

C. THOSE HELD IN DETENTION IN THE NORTHERN BORDER AREA, PRIMARILY BY THE SA DEFENCE FORCE, IN CONNECTION WITH THE TERRORIST ACTIVITY IN THE AREA.

D. (NOT ENVISAGED IN RESOLUTION 385) SWAPO
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DISSIDENTS OUTSIDE NAMIBIA, PRINCIPALLY HELD IN CAMPS IN ZAMBIA AND TANZANIA.

5. FROM THE UNITED NATIONS POINT OF VIEW, THE MOST IMPORTANT OF THIS GROUP ARE THE LONG TERM PRISONERS IN CATEGORY A WHO HAVE ALREADY SERVED MANY YEARS AS A RESULT OF CONVICTIONS UNDER THE TERRORISM ACT NO 83 OF 1967. THESE INCLUDE 16 SERVING LIFE SENTENCES AND ABOUT THE SAME NUMBER SERVING SENTENCES OF UP TO 20 YEARS, DUE FOR RELEASE IN 1987/89. THE NUMBERS IN CATEGORIES B AND C ARE UNKNOWN, AND MANY MAY BE HELD FOR QUESTIONING FOR RELATIVELY SHORT PERIODS. IT HAS BEEN CLAIMED THAT UP TO A THOUSAND EXIST IN CATEGORY D.

6. APART FROM THE TERRORISM ACT, THERE ARE SEVERAL SOUTH AFRICAN LAWS EXTENDED TO NAMIBIA UNDER WHICH "POLITICAL PRISONERS" HAVE BEEN CONVICTED, NOTABLY THE GENERAL LAW AMENDMENT ACT NO 76 OF 1962, COMMONLY KNOWN AS THE "SABOTAGE ACT". IN THE TWO ACTS NAMED, "SABOTAGE" AND

"TERRORISM" ARE DEFINED IN TERMS WHICH ARE SO WIDE THAT
ALMOST ANY ACTIVE OPPONENT OF THE GOVERNMENT COULD BE
CONVICTED UNDER THEM.

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7. OUR DISCUSSIONS WITH THE SOUTH AFRICAN GOVERNMENT,
AND IN PARTICULAR WITH MR. VORSTER, DEMONSTRATED THAT
THEY WILL NOT EASILY BE PERSUADED TO RELEASE CONVICTED
PRISONERS WHOM SAG REGARD AS CRIMINALS, BUT WHOM OTHERS
REGARD AS POLITICAL. IT IS EQUALLY CLEAR THAT THE
CONTINUED DETENTION OF POLITICAL PRISONERS, PARTICULARLY
THOSE IN CATEGORY A, WOULD BE A SERIOUS IMPEDIMENT TO
PROGRESS. WE ACCORDINGLY CONCLUDE THAT THE FOLLOWING
COURSES OF ACTION COULD BE CONSIDERED:

A) THE SOUTH AFRICAN GOVERNMENT COULD BE REQUESTED
TO RELEASE UNCONDITIONALLY ALL NAMIBIANS DETAINED IN
CATEGORIES A TO C;

B) WE COULD STIMULATE A REQUEST FROM THE AUTHORITIES
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IN NAMIBIA THAT SOUTH AFRICA RELEASE NAMIBIAN PRISONERS
IN THE INTERESTS OF ACHIEVING A POLITICAL SETTLEMENT.

C) SOUTH AFRICA COULD BE PRESSED TO TRANSFER ALL
NAMIBIAN PRISONERS TO PRISONS IN NAMIBIA UNDER THE JURIS-
DICTION OF NAMIBIAN AUTHORITIES.

IN THE CASE OF ACTION UNDER C, THERE WOULD NEED TO BE
TACIT UNDERSTANDING THAT THE PRISONERS WOULD BE THEN
RELEASED AT AN EARLY DATE. COURSE C WOULD PRESENT SOUTH
AFRICA WITH QE LEAST DOMESTIC POLITICAL PROBLEMS,
ALTHOUGH B MIGHT ALSO BE ACCEPTABLE.

8. IT SEEMS NECESSARY TO APPROACH INFORMED BODIES, SUCH
AS AMNESTY INTERNATIONAL, SWAPO INTERNAL AND POSSIBLY
CHURCHES AND LAWYERS ACTIVE IN DEFENDING NAMIBIAN
POLITICAL PRISONERS (PERHAPS WHEN REPRESENTATIVES OF THE
FIVE POWERS VISIT NAMIBIA) FOR ALL THE INFORMATION THEY
CAN PROVIDE ABOUT THE PRISONERS, INCLUDING DETAILS OF
THE CHARGES ON WHICH THEY HAVE BEEN CONVICTED. AT SOME
POINT, IT WOULD PROBABLY BE NECESSARY TO ASK THE SOUTH
AFRICAN AUTHORITIES THEMSELVES TO CONFIRM THE FACTS.
SINCE THIS WILL TAKE TIME, AND THERE IS LIKELY TO BE
CONFLICTING EVIDENCE, IT MAY BE NECESSARY TO ASK THE
SECRETARY-GENERAL TO ESTABLISH A WORKING GROUP TO
DEAL WITH THIS PROBLEM. IN THE INTERIM, USING THE AMNESTY
INTERNATIONAL LIST AS A STARTING POINT, THE FIVE MISSIONS
ARE ATTEMPTING TO UP-DATE AND RECONCILE AVAILABLE INFORMA-
TION ON NAMIBIANS DETAINED PRIMARILY FOR POLITICAL REASONS.
AN AMENDED LIST WILL BE SENT AS SOON AS POSSIBLE.

9. FINALLY, WE SHOULD CONSIDER WHETHER TO MAKE AN APPROACH
TO THE ZAMBIAN AND TANZANIAN GOVERNMENTS ABOUT THE SWAPO
MEMBERS DETAINED IN THEIR COUNTRIES. IT WOULD BE REASON-
ABLE TO ASK THEM TO ENSURE THAT THOSE DETAINED WERE RELEASED
IN THE EVENT THAT, AND AT THE SAME TIME AS, THOSE HELD
IN SOUTH AFRICA WERE RELEASED.NELSON

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Message Attributes

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